

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON**

**BOYDETT MARLENE VANCE,**

**Plaintiff,**

**v.**

**CASE NO. 2:15-cv-13772**

**NANCY A BERRYHILL,  
Acting Commissioner of Social Security,**

**Defendant.**

**PROPOSED FINDINGS AND RECOMMENDATION**

Currently pending before the court is Plaintiff's Memorandum in Support of Judgement on the Pleadings (ECF No. 11) and Defendant's Motion to Remand (ECF No. 12). This case was referred to this United States Magistrate Judge by standing order to consider the pleadings and evidence, and to submit proposed findings of fact and recommendation for disposition, all pursuant to 28 U.S.C. § 636(b)(1)(B). Defendant moves this Court for the entry of an order remanding this case to the Commissioner. Defendant represents that on remand, the Commissioner will direct the Administrative Law Judge to further evaluate Claimant's maximum residual functional capacity, and in doing so, further evaluate the medical and other opinions of record, explaining the reasons for the weight given to these opinions, and further consider the evidence of Claimant's need for oxygen and its impact on Claimant's ability to work (ECF No. 12). Defendant represents that Claimant's counsel has no objection to the remand.

The court proposes that the District Court find that Defendant has shown good cause for a remand pursuant to the fourth sentence of 42 U.S.C. § 405(g). It is hereby respectfully RECOMMENDED that the District Court GRANT Defendant's Motion to Remand (ECF No. 12),

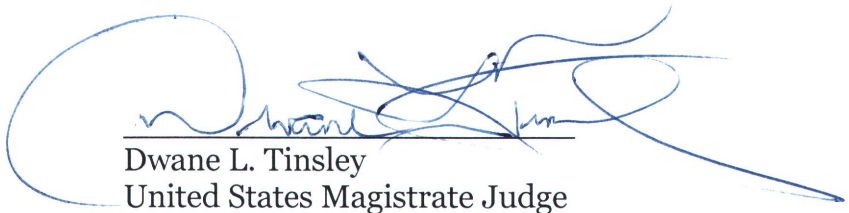
reverse the final decision of the Commissioner, remand this case for further proceedings pursuant to the fourth sentence of 42 U.S.C. § 405(g) and DISMISS this matter from this Court's docket.

The parties are notified that this Proposed Findings and Recommendation is hereby FILED, and a copy will be submitted to the District Judge John T. Copenhaver, Jr.. Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Rules 6(e) and 72(b), Federal Rules of Civil Procedure, the parties shall have three days (mailing/service) and then ten days (filing of objections) from the date of filing this Proposed Findings and Recommendation within which to file with the Clerk of this court, specific written objections, identifying the portions of the Proposed Findings and Recommendation to which objection is made, and the basis of such objection. Extension of this time period may be granted for good cause shown.

Failure to file written objections as set forth above shall constitute a waiver of *de novo* review by the District Court and a waiver of appellate review by the Circuit Court of Appeals. *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Wright v. Collins*, 766 F.2d 841, 846 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Copies of such objections shall be served on opposing parties, Judge Copenhaver and this Magistrate Judge.

The Clerk is directed to file this Proposed Findings and Recommendation and to mail a copy of the same to counsel of record.

Enter: February 24, 2017



Dwane L. Tinsley  
United States Magistrate Judge